

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

RADCLIFFE RICHARD WALKER, } NO. CV 16-365-SJO (AGR)

Petitioner,

v.

J. PRICE, WARDEN,

Respondent.

} ORDER TO SHOW CAUSE

The Court issues this Order To Show Cause because Petitioner's challenge to his 2013 parole denial appears to be barred by *Swarthout v. Cooke*, 562 U.S. 216 (2011) (*Cooke*). Petitioner must show cause on or before **March 4, 2016** why the court should not recommend dismissal of the petition.

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SUMMARY OF PROCEEDINGS

Petitioner is serving a 15-years-to-life prison sentence for a 1999 conviction for murder and felony hit and run. (Petition at 2.)

On March 21, 2013, the Parole Board denied Petitioner parole. (Petition, Attached Hearing Transcript at 1 & Decision at 20.)

On June 1, 2015, the California Court of Appeal denied habeas relief in case number B263138. (Petition at 3-4.) On September 30, 2015, the California Supreme Court denied a state habeas petition with a citation to *People v. Duvall*, 9 Cal. 4th 464, 474 (1995). (Petition at 95.)

On January 15, 2016, Petitioner filed a Petition for Writ of Habeas Corpus by a Person in State Custody (“Petition”) in this court.

11.

DISCUSSION

The Petition contains one ground for relief and refers to the attached state habeas petition submitted to the California Supreme Court. (Petition at 5.) Petitioner disagrees with the five-year denial of parole suitability. (*Id.* at 11-12.) Petitioner urges the court to review the Parole Board's decision and find that the decision was not supported by the evidence. Petitioner asks that the court vacate the Parole Board's decision and order the Parole Board to conduct a new parole suitability hearing. (*Id.* at 22-32.)

Federal habeas relief appears to be foreclosed by *Swarthout v. Cooke*, 562 U.S. 216 (2011) (*Cooke*). *Cooke*'s federal petition argued that the Parole Board's determination was not supported by the requisite evidence. The Supreme Court held that a federal habeas court cannot review the state law question of whether some evidence supports the decision that an inmate is not yet suitable for parole. *Id.* at 216, 220-22.

Instead, the federal habeas court's inquiry is limited to determining whether

the inmate was afforded constitutionally required procedures. "In the context of parole, we have held that the procedures required are minimal. In *Greenholtz*, we found that a prisoner subject to a parole statute similar to California's received adequate process when he was allowed an opportunity to be heard and was provided a statement of reasons why parole was denied." *Id.* at 220 (*citing Greenholtz v. Inmates of Neb. Penal and Correctional Complex*, 442 U.S. 1, 16 (1979)).

Here, Petitioner was present at his parole hearing, was given an opportunity to be heard, and was provided a statement of reasons for the denial of parole. (See Petition, Attached Hearing Transcript.) The Constitution “does not require more.” *Id.* In light of *Cooke*, Petitioner appears to present no cognizable claim for relief based on federal law.

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ORDER TO SHOW CAUSE

IT IS THEREFORE ORDERED that on or before ***March 4, 2016***, Petitioner shall show cause why the court should not recommend dismissal of the petition.

Petitioner is also advised that if he fails to respond to this order to show cause by March 4, 2016, the court will recommend that the petition be dismissed.

DATED: February 5, 2016

Alicia G. Rosenberg
ALICIA G. ROSENBERG
United States Magistrate Judge